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| 09/841,094      | 04/25/2001  | Rudolf Seiz          | Q63688              | 4971             |

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|                        |              |
|------------------------|--------------|
| EXAMINER               |              |
| HORTON, YVONNE MICHELE |              |
| ART UNIT               | PAPER NUMBER |
| 3635                   |              |

DATE MAILED: 09/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/841,094

Applicant(s)

RUDOLF SEIZ ET AL.

Examiner

YVONNE M. HORTON

Art Unit

3635



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Apr 25, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Apr 25, 2001 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in GERMANY on 04/27/00. It is noted, however, that applicant has not filed a certified copy of the GERMAN application as required by 35 U.S.C. 119(b).

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "buckle part"; "the brace having a curved end and a straight end" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the

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following is required: there is no support in the specification for the "buckled part" of claim 4.

Clarification and correction are required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 4 and 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 4 recites the limitation "said two straight brace parts" in line 2. There is insufficient antecedent basis for this limitation in the claim. Claim 1 introduces "straight brace parts"; however, there is no mention of any specific number of braced parts.

7. Regarding claim 6, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by

DE 19711627. DE 19711627 discloses a lattice girder including an upper (1) and lower (2) boom members arranged parallel to each other and forming a "triangle". The lattice girder further includes truss braces formed by straight brace parts (3) spaced in a v-shape relative to one another and being connected at a straight bridge (4a). A cross tie (4) extends at right angles to the lower boom (2) and the trusses are welded (5-7) to the lower boom members, see figures 1a and 1b. In reference to claim 2, the truss members abut the lower boom (2) at an acute angle ( $\infty 1, \infty 2$ ), see the marked attachment, and is welded to the lower boom (2) and the straight brace (3). Regarding claim 3, the ends of the cross ties (4) are disposed between the truss braces and the lower booms (2), see figure 2b, and is welded (5) therebetween, see figure (1a). In reference to claim 4, the straight braced parts (3) are connected to each other through a buckled part (3a,3b), and the straight bridge (4a) is located between the buckled parts (3a,3b) and extend parallel to the upper (1) and lower (2) booms. Regarding claim 5, the upper boom (1) is arranged between the straight bridge pieces (4a) and is welded thereto, see figure 5b.

10. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by DE 19711627.

DE 19711627 discloses a lattice girder including an upper (19') and lower (20', 21') boom members arranged parallel to each other and forming a "triangle". The lattice girder further includes truss braces formed by two angled straight brace parts (11'-14') curved (18) at one end and straight (22) at the other end; wherein a straight part (25) of the upper boom (19') connects

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the braced parts (11'-14') at the curved parts (18,26) and the truss braces are connected to each other by cross ties (23') welded thereto.

11. Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by DE 19711627.

DE 19711627 discloses a lattice girder including two angled straight brace parts (15-17) curved (18) at one end and straight (22) at the other end; and having a straight bridge portion (23) connecting the straight braced parts (15-17).

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19711627.

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As detailed in paragraph #8, above, DE 19711627 discloses the basic claimed lattice girder except for the boom member being arranged at different height relative to the straight bridge pieces. It Although DE 19711627 is silent in this regard, it would have been an obvious matter of design choice to one having ordinary skill in the art at the time the invention was made to arrange the members of the lattice in a manner that would allow the structure to achieve its maximum load potential.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH

Primary Examiner

September 22, 2002

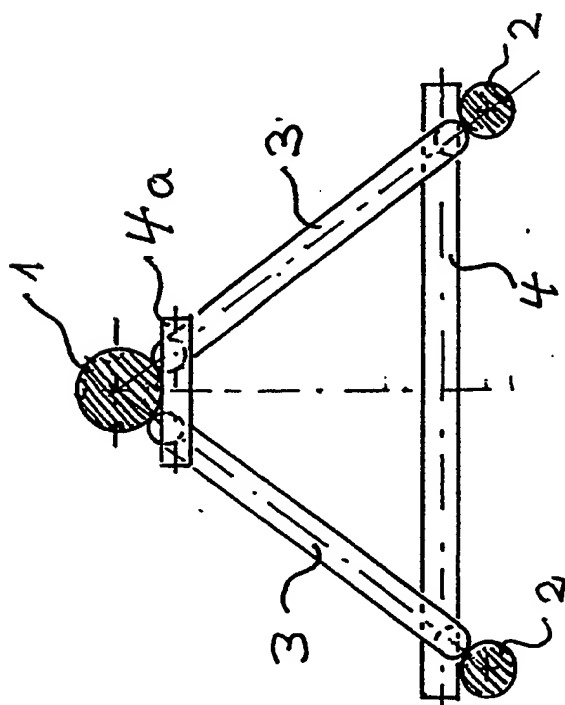


Fig 2a

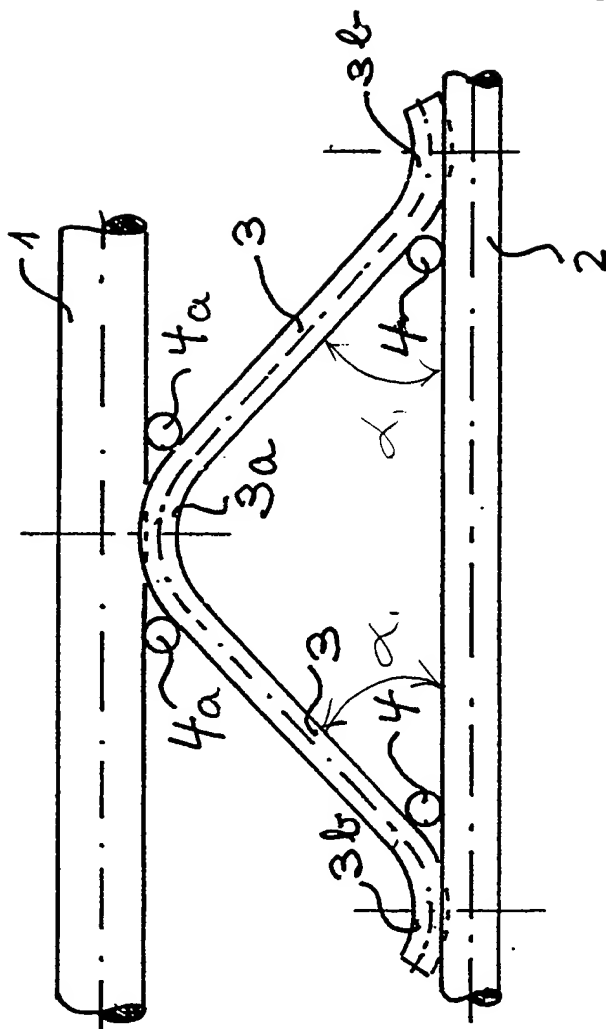


Fig 2b



